

**ZONING BOARD OF APPEALS**  
**March 29, 2016**  
**PUBLIC HEARING**

Charles Marino called the meeting to order at 6:00 P.M. with the following in attendance:

Charles Marino, Chair  
Arlene Schwartz-Regan, Vice-Chair  
Basiliza MacCalmon, Secretary  
Edward Rachuba  
Kimberly Kenneson  
David Cronin, alternate

Sue Goggin, ZEO  
Lori Rotella, Assistant ZEO  
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1. Charles Marino took attendance and noted there was a quorum. Dave Cronin was made a regular voting member for Appeal #1978 which was continued from the January 26, 2016 meeting.
2. Approval of previous minutes and secretary will sign the minute book.

**VOTED:** Unanimously on a motion by David Cronin and seconded by Basiliza MacCalmon to **ACCEPT** the January 26, 2016 meeting minutes as written.

3. **6:00 P.M. PUBLIC HEARING APPEAL #1978** – Applicant will seek a variance of section 24.1, Schedule B, 5.3 of the Naugatuck Zoning Regulations for a pool at 191 Crestwood Drive, Applicant: Wilfredo & Esmaelen Mercado.

Basiliza MacCalmon read appeal #1978 into the record. Charles stated proof of certified mailings was received. He read the newspaper legal notices into the record for Appeal #1981 and #1982.

Charles called the applicant for Appeal #1978 to the podium. Esmaelen Mercado, 191 Crestwood Drive, stated that her husband could not be at the meeting tonight because he had to work. Esmaelen explained to the commission where she would like to install the pool and a privacy fence. She explained the layout of her yard and that there is a forest behind her house and a housing project beyond that which is located in Waterbury. She further explained that her neighbor's yard at 199 Crestwood Drive is cleared to the housing project. Mrs. Mercado informed the commission as to the hours her and her husband work. She explained her husband usually does not return home until 6 p.m. – 7 p.m. She also stated that her elderly parents live with them. She has a full time aide and nurse to take care of them. Mrs. Mercado explained how loud the noise is coming from the housing project, which she hears in her house. She noted again, that her yard has a barrier of trees between her house and the project and the neighbor's house does not. The neighbor also noted at the last meeting that there are beer bottles all over. Mrs. Mercado stated that also comes from the housing project. Attorney Michael McVerry, 35 Porter Avenue, Naugatuck, CT was at the meeting on behalf of Susan Giasullo, 199 Crestwood Drive. Attorney McVerry submitted to the commission the Mercado's original application that they submitted for an 18' X 30' swimming pool. The

application states the topography of the land and the limited amount of space in the backyard is their hardship. Attorney McVerry believes that part of the problem is that the plans were submitted with a penciled in sketch. He stated the commission should require, at the very least, a survey. It is difficult to determine the property lines with what was submitted. His other argument is the applicant states there is no room in the back yard, but the lot is an oversized lot in an R-15 zone. They have 9,000 square feet more than is needed for that zone. Attorney McVerry believes the application should be treated as incomplete. He also submitted photos of his client's back yard at 199 Crestwood Drive and the Mercado's back yard at 191 Crestwood Drive. Attorney McVerry doesn't believe the housing project is a hardship. He believes there is plenty of room in the back yard to clear the existing trees and put more trees in the lower yard for a barrier. He explained to the commission that the Mercado's bought a pool that was too large. A hardship is not financial and that the cost to clear the existing trees and install new trees to the lower lot should not be considered as the hardship. Once again he stated there is no basis for this application. Kimberly Kenneson asked if the neighbor Susan Giasullo would speak on her own behalf and why she does not want the pool. Her attorney spoke for her. The commission mentioned that, at the last meeting, Susan Giasullo was not concerned about the size of the pool and her concern was with the noise because the pool would be too close to her bedroom window. The commission did go out to the location and noted that there were no windows on that side of the house where the pool will be located. Edward Rachuba explained what the commission looks for on their inspection. Dave Cronin stated that the neighbor said at the last meeting that she did not want to look at the pool, but there is not window on that side of the house. The commission also felt if the pool was farther back you would hear more noise. The commission asked repeatedly what is Attorney McVerry's client's issue or complaint with the pool. The attorney stated she wants the pool the legal distance away from the property line which is 20 feet not 17 feet. Mrs. Mercado also explained that there will be no heater in the pool, so it will not be used at night, therefore there will be no noise. She also stated that at the last meeting, the neighbor complained that besides the noise, she did not want people from 191 Crestwood Drive looking at her when she is out in her yard. Susan Goggin updated the commission on the background of the original permit for the pool. The Building Department received a complaint and Susan Goggin went with the Building Department to inspect which lead to the Zoning Department finding out the pool was not installed in the original location as shown on the permit issued. The pool came down and the Mercado's applied for a variance. The commission asked if there was any circumstances the neighbor, Susan Giasullo, would agree to let pool be installed in the location where the Mercado's are requesting to put it. Attorney McVerry's client feels they should spend the money and put the pool in the back yard. Mrs. Mercado stated the commission went out to her house twice and that there are spikes where the property line is located. The commission requested that the applicant have a survey done. Mrs. Mercado agreed to have a survey done prior to the April 26, 2016 meeting.

Applicant granted an extension until the April 26, 2016 meeting at 6:00 P.M.

4. **6:15 P.M. PUBLIC HEARING APPEAL #1981** - Applicant will seek a variance of section 25.4.3 of the Naugatuck Zoning Regulations for side yard setback at 113 Celentano Drive, Applicant: Daniel & Candice Palange

Basiliza read appeal #1981 into the record.

Daniel and Candice Palange, 113 Celentano Drive stated they are requesting a variance for the side yard setback to put up a carport, which is not a permanent structure. Candice explained to the commission that both she and Daniel have several health issues including herniated discs, heart issues and arthritis. It is very difficult to clean off the vehicles in the winter. Candice explained that the carport will have a side door which will give her less of a walk outside to the house. Daniel explained that he verified with the Building Department that the structure will be in compliance with the building code. He did his research on the building before coming before the ZBA. The Palange's neighbors to the right and left of their house were at the meeting with them. Neither neighbor had any issues with the variance. Charles Marino questioned how the structure is anchored to the ground if it is not permanent. Daniel explained it is screwed to the ground every 2 feet. The structure is rated for 150 mile an hour winds not to move and the building code is only for 100 mile an hour winds. Susan Goggin explained to the commission the applicant will also need to obtain a building permit after receiving a zoning permit. Charles Marino asked for any Commission or public comment. There was none.

Charles Marino brought Kimberly Kenneson to full voting status for Appeal # 1981 and Appeal # 1982.

**VOTED:** Unanimously on a motion by Edward Rachuba and seconded by Arlene Schwartz-Regan to **GRANT Appeal #1981.**

5. **6:39 P.M. PUBLIC HEARING APPEAL #1982** – Applicant will seek a variance of section 24 #5.2 of the Naugatuck Zoning Regulations for rear setback at 483 Field Street, Applicant: Vajay Chirkout

Basiliza MacCalmon read appeal #1982 into the record.

Vajay Chirkout explained he plans to eliminate the swing set and put the pool in that location. Without a variance for the rear setback, the pool would be in the middle of the yard. He said he would be using the pool for 3 months out of the year and the other 9 months the yard would be unusable. With the pool pushed to the back of the yard, he and his family would have use of the yard year round. Vajay also stated he is looking at installing a 24' round above ground pool. Basiliza read 2 letters and 1 email from the neighbors into the record. The first letter was from Robert K Sullivan of 280 Conrad Street. He stated he does not contest the variance. The second letter was from Roberta Sarrazin of 475 Field Street. She does not contest the variance either. The email was sent from Pat Rimkoski of 130 Round Hill Road. Her concerns regarding noise and people possible going onto her lot stem from the previous owners of 483 Field Street. There was a discussion regarding the legal responsibility of owning a pool. Susan explained that if the variance was granted, Mr. Chirkout would still need to get his zoning and building

permit. He would have to install the pool per the building code. Vajay stated for the record that he has two hardships; 1. If the pool is 30' from the rear yard line, his kids would be playing near the road and 2. If the pool breaks, it would flood the basement of his house. Charles asked for any public comment. David Rimkoski of 130 Round Hill Road stated he has no complaints with the noise or how close the pool will be to the property line, but he is requesting a fence be put up on the property line. David stated he is concerned with his back lot which is currently overgrown. He hopes to put a garage on that piece someday. His main concern is if people are running around the pool and fall on his property. He is not concerned with the noise or it being an eye sore. He cannot see that area from his house. Susan had David draw on the plot plan submitted with the application where the current fence is and where he is requesting additional fence be installed. Vajay explained to the commission that there were bushes along the property line, but he cut them back because he felt they were an eye sore. Vajay offered to pay for half of the fence if David Rimkoski would agree to pay for half. David said he did not want to pay for the fence. He also stated he is not requesting the new fence match the existing fence. Susan Goggin read Section 51.3 to the commissioners regarding adding conditions to a variance. There was a long discussion between the commissioners, David Rimkoski (the neighbor) and Vajay Chirkout (the applicant) regarding if a fence should be installed, what material it should be made out of, and how high the fence should be. Arlene Schwartz-Regan recused herself from voting due to David Rimkoski being her nephew. Charles Marino made David Cronin a regular voting member in place of Arlene.

**VOTED:** Unanimously on a motion by Edward Rachuba and seconded by Kimberly Kenneson to **GRANT Appeal #1982** on the condition that he builds a permanent fence by May 1, 2017 and the reason that it is put off by a year is because there is a chest high barrier there now.

6. There were no additional items added to the agenda.
7. **VOTED:** Unanimously on a motion by Basiliza MacCalmon and seconded by Kimberly Kenneson to **ADJOURN** the meeting at 8:19 P.M.

RESPECTFULLY SUBMITTED:

Basiliza MacCalmon, Secretary/Ir